

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID LINDENSMITH,

Plaintiff,

No. 12-CV-10644-DT

vs.

Hon. Gerald E. Rosen

DR. PETSCHOW, et al.,

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND DISMISSING PLAINTIFF'S COMPLAINT

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on March 31, 2014

PRESENT: Honorable Gerald E. Rosen
United States District Chief Judge

This Section 1983 prisoner civil rights matter having come before the Court on the January 9, 2014 Report and Recommendation of United States Magistrate R. Steven Whalen recommending that the Court grant the Fed. R. Civ. P. 12(b)(6) motion for dismissal filed by Defendants Stephen DeBoer and June Price;¹ and Plaintiff having timely filed objections to the Magistrate Judge's Report and Recommendation; and the Court having reviewed the Magistrate Judge's Report and Recommendation, Plaintiff's Objections, and the Court's entire file of this action, and having concluded that, for the reasons stated in the Report and

¹ The only other named defendant, Dr. Petschow, was previously dismissed pursuant to this Court's Order of March 28, 2013.

Recommendation, Defendants' motion for dismissal should be granted and this case should, accordingly, be dismissed in its entirety, with prejudice; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of January 9, 2014 [**Dkt. # 49**] be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that Defendants Stephen DeBoer and Jane Price's Motion for Dismissal [**Dkt. # 45**] be, and hereby is, GRANTED.

Defendants DeBoer and Price being the only remaining defendants in this action,

IT IS FURTHER ORDERED that Plaintiff's Complaint is DISMISSED in its entirety, without prejudice.

IT IS FURTHER ORDERED that, based on the reasons set forth in the Magistrate Judge's Report and Recommendation of February 1, 2013, this Court certifies that any appeal by Plaintiff would be frivolous and not in good faith. 28 U.S.C. § 1915(a).

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: March 31, 2014

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 31, 2014, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5135